

IN THE LAW COURT FOR SULLIVAN COUNTY
AT BRISTOL, TENNESSEE

David Leonard }
And }
Pam Leonard }
Plaintiff, }
v. } Civil Action No. C19701(M)
State Farm Fire and Casualty }
Insurance Company }
Defendant. }

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COMPLAINT

COMES NOW Plaintiffs, David Leonard and Pam Leonard, citizens and residents of Sullivan County, Tennessee, and files this pleading pursuant to the Local Rules for Sullivan County, and for their cause of action says:

1. Plaintiffs are citizens and residents of Sullivan County, Tennessee.
2. Defendant is a domestically related insurance company licensed to do business in the State of Tennessee at all times pertinent hereto.
3. Plaintiffs had a policy with Defendant that covered their personal property as well as the reality. The State Farm Fire and Casualty Insurance Company Policy number is 42-KK-6692-8.
4. That on or about November 10, 2008 Plaintiffs sustained a theft of their property in the amount of \$35,000.00.

he Slaughter Law Firm
Frank L. Slaughter, Jr.
324 6th Street
Bristol, Tennessee 37620
423-844-0560

EXHIBIT

1

Case 2:09-cv-00295-JRG-DHI Document 1-1 Filed 12/22/09 Page 1 of 14 PageID #: 5

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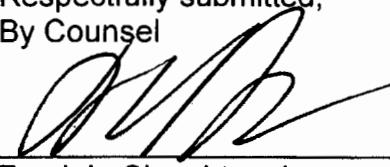
5. That Plaintiffs have cooperated at all times pertinent hereto with Defendant's Insurance Company.
6. That Plaintiffs have complied with all conditions precedent to this insurance policy.
7. Plaintiffs have been without the monies and without prejudgment interest on said monies.
8. State Farm Fire and Casualty Insurance Company has wrongfully and intentionally withheld monies due Plaintiffs and has violated the Tennessee Consumer Protection Act.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs prays for judgment as follows:

1. That this Complaint be filed and served upon the Defendant through the Commissioner of Insurance, Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243-1131.
2. That Plaintiffs be awarded judgment against Defendant for the full amount of the policy monies on both the-personal property and the realty .
3. That Plaintiffs be awarded a judgment against Defendant for \$35,000.00 the prejudgment interest on said monies for the personal property damages they have lost, and treble damages for violating the Tennessee Consumer Protection Act and their Attorney fee.

cc: Slaughter Law Firm
Frank L. Slaughter, Jr.
324 6th Street
Knoxville, Tennessee 37620
423-844-0560

Respectfully submitted,
By Counsel

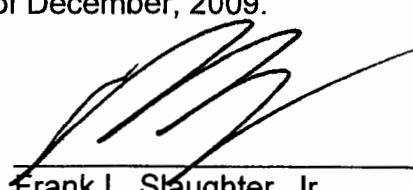


Frank L. Slaughter, Jr.
BPR No. 18893
324 6th Street
Bristol, Tennessee 37620
(423) 844-0560

CERTIFICATE OF SERVICE

I, Frank L. Slaughter, Jr. do hereby certify that I have mailed, via First Class Mail, a true and correct copy of the foregoing Complaint to Leslie T. Ridings, Esq. Hunter, Smith & Davis, LLP, Post Office Box 3740, Kingsport, Tennessee 37664-0740 and Chad E. Wallace, Esq. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, Post Office Box 3038, Johnson City, Tennessee 37602-3038.

This 11/2 day of December, 2009.



Frank L. Slaughter, Jr.

Frank L. Slaughter Law Firm
Frank L. Slaughter, Jr.
324 6th Street
Bristol, Tennessee 37620
(423) 844-0560

IN THE LAW COURT FOR SULLIVAN COUNTY
AT BRISTOL, TENNESSEE

DEFENDANT'S MOTION FOR MORE DEFINITE STATEMENT

Comes Defendant State Farm Fire and Casualty Insurance Company (misidentified by Plaintiffs as State Farm Insurance Company) ("State Farm"), pursuant to Tennessee Rule of Civil Procedure 12.05, and moves the Court for an Order requiring Plaintiffs to provide a more definite statement of their claims. In support of this Motion, State Farm states:

1. Plaintiffs filed this case in the General Sessions Court for Sullivan County at Bristol, Tennessee around the first of October 2009.¹ The Civil Summons seems to allege breach of contract, bad faith, and Tennessee Consumer Protection Act claims. (See Civil Summons.)

2. On October 29, 2009, State Farm filed an Application for Removal to remove this case from the Sullivan County General Sessions Court to this Court because State Farm has a substantial defense and the case is of such an expensive nature as to warrant removal. That

¹ No "issued" or filing date appears on the Civil Summons.

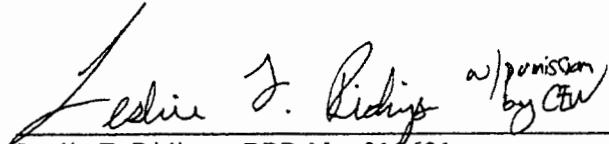
Application was granted by the Sullivan County General Sessions Court by an Order of Removal filed on November 2, 2009. No trial took place in the Sullivan County General Sessions Court.

3. The allegations in the Civil Summons are so vague and minimal that State Farm cannot reasonably be required to frame a responsive pleading or reasonably fashion discovery and defend in this case. The Civil Summons states, "Breach of contract, Tennessee Consumer Protection Act, attorney's fees & 25 percent bad faith." No facts are pled to support the claims asserted, and the parties did not have the benefit of testimony in the Sullivan County General Sessions Court before the case was removed to this Court.

4. Based upon the Civil Summons, State Farm is unable to ascertain what alleged acts or omissions form the basis for Plaintiffs' claims—in particular, Plaintiffs' bad faith and TCPA claims. TCPA claims require particularized pleading pursuant to Tennessee Rule of Civil Procedure 9.02. See Harvey v. Ford Motor Credit Co., 8 S.W.3d 273, 275 (Tenn. Ct. App. 1999). Under the present circumstances, State Farm is unable to ascertain the facts underlying Plaintiffs' claims so that it may adequately and appropriately frame discovery and prepare for trial.

WHEREFORE, State Farm respectfully requests that this Motion be granted and that the Court enter an Order requiring Plaintiffs to serve a more definite statement of their claims.

Respectfully submitted,


Leslie T. Ridings ^{w/ permission by CTR}

Leslie T. Ridings, BPR No. 019621
HUNTER, SMITH & DAVIS
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P.O. Box 3740
Kingsport, Tennessee 37664
Phone: (423) 378-8828
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ltridings@hsdlaw.com

and



Chad E. Wallace, BPR No. 021741
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
100 Med Tech Parkway, Suite 200
P.O. Box 3038
Johnson City, Tennessee 37602
Phone: (423) 928-0181
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cwallace@bakerdonelson.com

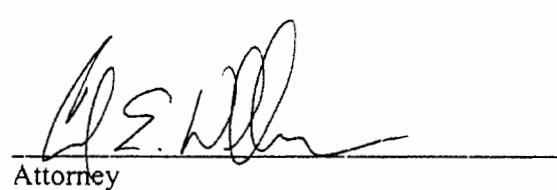
*Attorneys for Defendant State Farm Fire
and Casualty Insurance Company*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing has been served upon the following counsel for parties in interest herein by mailing same to the offices of said counsel by United States Mail with sufficient postage thereon to carry the same to its destination.

Frank L. Slaughter, Jr.
324 Sixth Street
Bristol, Tennessee 37620

This 14th day of December, 2009.



Attorney

IN THE LAW COURT FOR SULLIVAN COUNTY
AT BRISTOL, TENNESSEE

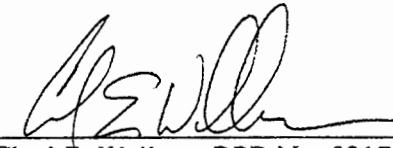
NOTICE OF HEARING

Please be advised and take notice that Defendant State Farm Fire and Casualty Insurance Company (misidentified by Plaintiffs as State Farm Insurance Company) will appear in the Law Court for Sullivan County, at the Courthouse in Bristol, Tennessee, on the 8th day of January, 2010, at 9:00 a.m., or as soon thereafter as it can be heard, to request the relief sought in its Motion for More Definite Statement.

Respectfully submitted,

Leslie T. Ridings w/ permission
by CEN
Leslie T. Ridings, BPR No. 019621
HUNTER, SMITH & DAVIS
1212 North Eastman Road
P.O. Box 3740
Kingsport, Tennessee 37664
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and



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cwallace@bakerdonelson.com

*Attorneys for Defendant State Farm Fire
and Casualty Insurance Company*

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The undersigned hereby certifies that a true and exact copy of the foregoing has been served upon the following counsel for parties in interest herein by mailing same to the offices of said counsel by United States Mail with sufficient postage thereon to carry the same to its destination.

Frank L. Slaughter, Jr.
324 Sixth Street
Bristol, Tennessee 37620

This 15th day of December, 2009.



Attorney

IN THE LAW COURT FOR SULLIVAN COUNTY
AT BRISTOL, TENNESSEE

FILED

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DAVID and PAM LEONARD,)
Plaintiffs,)
v.) Civil Action No. C13701(M)
STATE FARM INSURANCE)
COMPANY [STATE FARM FIRE)
AND CASUALTY INSURANCE)
COMPANY],)
Defendant.)

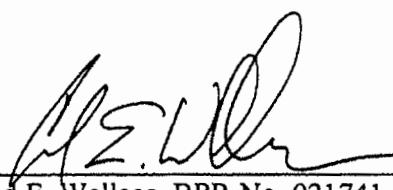
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DEFENDANT'S JURY DEMAND

Comes Defendant State Farm Fire and Casualty Insurance Company (misidentified as State Farm Insurance Company), pursuant to Tennessee Rule of Civil Procedure 38.03, and demands a trial by jury of all issues so triable.

Respectfully submitted,

Leslie T. Ridings <sup>w/ permission
by CEN</sup>
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cwallace@bakerdonelson.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing has been served upon the following counsel for parties in interest herein by mailing same to the offices of said counsel by United States Mail with sufficient postage thereon to carry the same to its destination.

Frank L. Slaughter, Jr.
324 Sixth Street
Bristol, Tennessee 37620

This 5th day of November, 2009.



Attorney

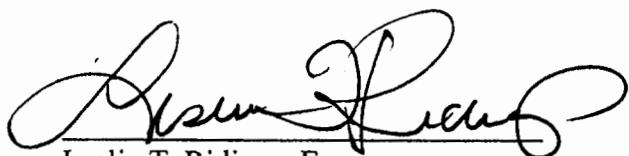
2. That costs of the cause accrued in the Sullivan County General Sessions Court prior to the Application of Removal shall be transferred to the Sullivan County Circuit Court and will be taxed upon conclusion of this matter.

ENTER this the 2nd day of November, 2009.

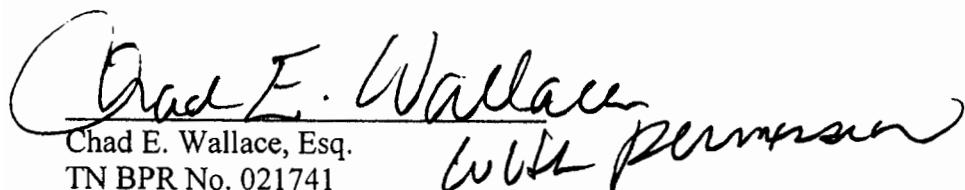


Judge

REQUESTED:



Leslie T. Ridings, Esq.
TN BPR No. 019621
Attorneys for Defendant
HUNTER, SMITH & DAVIS, LLP
Post Office Box 3740
1212 North Eastman Road
Kingsport, TN 37664-0740
(423) 378-8828



Chad E. Wallace
TN BPR No. 021741
With permission

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& BERKOWITZ PC**
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Post Office Box 3038
Johnson City TN 37602-3038
(423) 928-0181

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and exact copy of the foregoing Application for Removal has been served upon the following, by placing a copy of same with the United States Postal Service with sufficient postage to carry same to said destination(s), this the 29th day of October, 2009:

Frank L Slaughter, Jr., Esq.
324 6th Street
Bristol, TN 37620-4634

HUNTER, SMITH & DAVIS, LLP



Leslie T. Ridings

